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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JERRY GEORGE YORK,

Defendant and Appellant.

A124593

(Mendocino County
Super. Ct. No. SCUKCR9622897-2)

Counsel appointed for defendant Jerry George York has asked this court to independently examine the record in accordance with *People v. Wende* (1979) 25 Cal.3d 436, and determine if there are any arguable issues that require briefing. Defendant was informed of his right to file a supplemental brief, but he elected not to do so. We have conducted that review, conclude there are no arguable issues, and affirm.

BACKGROUND

Because defendant entered a plea of guilty without ever having a preliminary examination, the only information about the offenses charged against him comes from the probation officer's report. It shows that in late 1995, Mendocino authorities learned that defendant had for several months molested the daughter of his cohabitant girlfriend. In May 1996, the District Attorney of Mendocino County filed a criminal complaint in which defendant was charged with four counts of violating Penal Code section 288.

Defendant fled the state, and lived in the East until he was apprehended in West Virginia in 2008. When returned to California, defendant moved to dismiss the charges for violation of his right to a speedy trial. The prosecution filed opposition to the motion,

arguing there was no speedy trial violation because defendant knew of the charges against him when he “made the decision to leave the state and make himself unavailable.” At the request of both sides, the court took additional time to rule on the motion in order that it could issue a written ruling. Ultimately, the court did not prepare a written ruling, but its oral ruling denying the motion occupies six pages in the reporter’s transcript. The gist of the ruling was that (1) the mere filing of the criminal complaint against defendant when he was not under arrest did not trigger protection under either state or federal speedy trial standards, and (2) under both standards defendant had failed utterly to demonstrate prejudice from the delay.

Shortly thereafter, defendant and the prosecution concluded a partial negotiated disposition. In exchange for waiving his right to a preliminary examination, and for the dismissal of three of the four counts against him, defendant agreed to plead to a single count of violating Penal Code section 288. The psychiatrist who provided the court with the report required by Penal Code section 288.1, recommended against granting defendant probation. The trial court accepted the probation officer’s recommendations to deny probation and impose the mitigated term of three years in state prison.

Defendant filed a timely notice of appeal.

DISCUSSION

Defendant was at all relevant times represented by counsel, who ably defended his interests.

There was no error in the denial of defendant’s speedy trial motion.

Defendant’s change of plea complied with the formalities required by *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969) 1 Cal.3d 122.

The court did not abuse its discretion in declining to admit defendant to probation, nor did the court impose an unauthorized sentence.

DISPOSITION

The judgment of conviction is affirmed.

Richman, J.

We concur:

Kline, P.J.

Haerle, J.